

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Cedric Boatwright, #273217,

Plaintiff,

VS.

Donald Bryant, Marion County
Prison Camp, et al.,

Defendants.

Civil Action No. 6:04-22750-TLW-WMC

REPORT OF MAGISTRATE JUDGE

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On February 25, 2005, defendants McKay and Reed filed a motion for summary judgment. Also on February 25, 2005, defendants Bryan and Marion County Commission filed a separate motion for summary judgment. By orders of this court filed March 3, 2005, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately to the motions. On March 11, 2005, the plaintiff filed a motion for appointment of counsel. By order of the court filed March 21, 2005, the motion was denied and the plaintiff was given through April 26, 2005, to respond to the motions for summary judgment. The plaintiff filed no response.

As the plaintiff is proceeding *pro se*, the court filed another order on June 2, 2005, giving the plaintiff through June 27, 2005, to file his response to the motions for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. On June 10, 2005, the plaintiff filed his own motion for summary judgment, to which the defendants filed opposition on June 16, 2005. However, the plaintiff did not file a response to the defendants' motions.

On June 28, 2005, the court gave the plaintiff a final opportunity, through July 18, 2005, to file a response to the defendants' motions. He was again advised that his failure to do so would result in dismissal of this action for failure to prosecute. The plaintiff has not responded.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/William M. Catoe
United States Magistrate Judge

July 20, 2005

Greenville, South Carolina